

REMARKS/ARGUMENTS

Before the present reply, claims 45-49 were pending in the case. All of these claims remain pending in the case.

Claims 45, 47 and 48 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Chang '97 et al, "Research on Collaboration Net", 6th IEEE Workshop on Future Trends of Distributed Computing Systems 1997; pp. 228-33 (hereinafter " '97 Reference"). It should be noted that in the previous Office Action, claims 45-49 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Chang '99 et al. "Rule Mitigated Collaboration Technology", IEEE, p. 137, p. 142, Dec 1999 (hereinafter " '99 Reference"), in view of the '97 Reference. For some time, the Office has taken the position that the '97 Reference only discloses a client server collaboration distributed system that uses an internet session and floor control rules, such as Robert's Rules of Order ("RRO"), and a colored petri net to model an extended RRO. The previous Office Action stated that the teachings of the '99 Reference, when combined with the teachings of the '97 Reference, rendered claims 45-49 obvious to one skilled in the art. Thus, the Office is on official record as having made the determination that the '97 Reference is non-anticipatory prior art. No explanation has been provided by the Office for this sudden reversal in course. If claims 45, 47 and 48 are anticipated by the '97 Reference, then why did the Office FAIL to make this rejection in previous Office Actions? Why did the Office FAIL to address the arguments previously made by the Applicant that addressed the '97 Reference's failure to meet each and every limitation of

the claims? The instant Office Action is an example of piecemeal examination. The Manual of Patent Examining Procedure (M.P.E.P.) 707.07(g) [Piecemeal Examination] states that:

Piecemeal examination should be avoided as much as possible. The examiner ordinarily should reject each claim **on all valid grounds available**, avoiding, however, undue multiplication of references. (See MPEP § 904.03.) ... Where a major technical rejection is proper, it should be stated with a full development of reasons rather than by a mere conclusion coupled with some stereotyped expression.

The Office Action fails to particularly point out and distinctly explain how the '97 reference suddenly anticipates the claims when the Office had previously taken the position that the '97 reference is only useful as a secondary reference to the '99 Reference. The Office has stated on the record that, in the instant action, the '97 Reference only discloses a client server collaboration distributed system that uses an internet session and floor control rules, such as Robert's Rules of Order ("RRO"), and a colored petri net to model an extended RRO. Why did the Office ever bother with making an obviousness rejection using the '99 Reference as the primary reference in the previous Office Action if the '97 Reference actually anticipated the claims? In making a rejection, the Office Action has an initial duty of supplying the requisite factual basis and may not, because of doubt that the invention is patentable, resort to speculation, unfounded assumption or hindsight reconstruction to supply deficiencies in the factual basis for the rejection. See In re Warner, 379 F.2d 1011, 1017, 154 USPQ 173, 177 (CCPA 1967), cert. denied, 389 U.S. 1057 (1968). In the current Office Action,

it appears that the Office is doing its best to stretch the '97 Reference in a manner that is utterly inconsistent with its previous application of the '97 Reference.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The Office Action attempts to cite various portions of the '97 Reference as anticipating the claims. However, the Office does nothing more than cite page, column and line. The Office fails to particularly point out and distinctly explain HOW these sections of the '97 Reference allegedly anticipate the claimed subject matter with an element-by-element specificity. The Office has completely failed to particularly point out and distinctly correlate the '97 Reference with the elements of the claims that the '97 Reference allegedly anticipates.

The rejections of claims 45, 47 and 48 fail to state *prima facie* cases of anticipation. For the reasons set forth in Applicant's prior responses, the '97 Reference is insufficient, by itself, to anticipate claims 45, 47 and 48. As has been pointed out before, the '97 Reference fails to teach means for allowing mitigation of a set of protocol rules within a meeting environment; an object based client-server architecture for supporting a meeting environment and means for allowing mitigation of the set of protocol rules; a set of application program interfaces which allow communication between said protocol mitigation means and the meeting environment; or an electronic meeting that takes advantage of a network's capacity to handle multiple simultaneous communication channels. As a result, the '97 Reference fails to teach or suggest the

current invention as claimed, and Applicant respectfully requests the §102 rejection be withdrawn.

Furthermore, the Office Action FAILS to properly reject claims 47 and 48. The Office Action attempts to avoid its responsibility to particularly point out and distinctly reject each and every limitation of the claims by merely stating in a conclusory manner that claims 47 and 48 contain similar limitations as those disclosed in claim 45 and are rejected under the same rationale. Where a major technical rejection is proper, it should be stated with a full development of reasons rather than by a mere conclusion coupled with some stereotyped expression. See M.P.E.P. 707.07(g).

Therefore, the Applicant respectfully requests reconsideration of the claims and withdrawal of the rejections of independent claims 45, 47 and 48, as well as any and all the claims which depend respectively therefrom.

Claims 46 and 49 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chang '97 as applied to claims 45 and 48 above, in view of Robert's Rules of Order Revised – 1915 Version by General Henry M. Robert, hereinafter referred to as RROR. However, as the '97 Reference fails to anticipate each and every limitation of claims 45 and 48, claims 45 and 48 are allowable, as well as claims 46 and 49 which respectively depend therefrom. Furthermore, the Office Action failed particularly point out and distinctly explain the level of ordinary skill in the prior art at the time of the invention....a basic requirement in making out a *prima facie* case of obviousness. See Graham v. John Deere Co., 383 U.S. 1 (1966). The need for the Office to determine the

level of ordinary skill in the art at the time of the invention in order to make a *prima facie* case of obviousness was recently re-affirmed in KSR v. Teleflex, 550 U.S. ___, 127 S. Ct. 1727 (2007). Nowhere in the Office Action does the Office make any explicit or inherent determination of the level of ordinary skill in the art at the time of the invention.

Therefore, the Applicant respectfully requests reconsideration of the claims and withdrawal of the rejections of 46 and 49.

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Reexamination and reconsideration of the application, as amended, are requested. If for any reason the Examiner still finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles telephone number (310) 229-9948 to discuss the steps necessary for placing the application in condition for allowance. You are hereby authorized to charge any fees due and refund any surplus fees to our Deposit Account No. 22-0261. Please reference matter number 80390.250333.

Respectfully submitted,

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